heavy machinery in a context where there were significant structural issues with the chancel of the church, which some believed to be related to or affected by drainage. The parochial church council had discussed and dismissed the need to apply for a faculty. In granting the confirmatory faculty, the chancellor imposed certain conditions as to the making good of the area where the works had taken place and required the parish to facilitate and bear the cost of a visit by a DAC architect member to ensure the satisfactory completion of the works. [RA]

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Thaler v Amzalak
New South Wales Supreme Court: Schmidt J, 27 May 2013
Beth Din – arbitration agreement – bias – misconduct

Mr Thaler sought an order enforcing an arbitration award made in the Sydney Beth Din against Mr Amzalak in relation to a dispute over the market sale of certain shares. Mr Amzalak sought an order setting aside the award of the Beth Din. The court held that the Beth Din been conducted otherwise than in accordance with the Commercial Arbitration Act 1984 and the rules of natural justice. Mr Amzalak had been given only two days' notice of the arbitration hearing, was not given adequate notice of the case against him and was not permitted to call much of the evidence he sought to adduce in his defence on the basis that it was irrelevant. Two of the three 'Dayonim' were found to have displayed actual partiality against Mr Amzalak for undisclosed reasons which were subsequently shown to have no proper foundation. Mr Amzalak was further disadvantaged by the Dayonim's discussions in Yiddish in the hearing of the parties, which he did not speak well whereas the other party did. The Beth Din was not conducted in accordance with the arbitration agreement, which was not signed until during the course of the hearing. Inadequate reasons were given for the award.

In setting aside the award of the Beth Din, the court observed that, even if Mr Thaler had made out his case, in the circumstances the matter could not have been remitted to the Beth Din under section 43 of the 1984 Act as this was not an order which justice could permit to be made. [RA]

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